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INTRODUCTION

- **REGULATORY UPDATE**
 - **NEW CONSTRUCTION GENERAL PERMIT**
 - **PENDING CII PERMIT**
 - **RECEIVING WATER LIMITATIONS**
 - **PFAS**
- **LITIGATION UPDATE**
 - **RWQCB ENFORCEMENT ACTIONS**
 - **CIVIL LIABILITY COMPLAINTS**
 - **MINIMUM MANDATORY PENALTIES (MMPS)**
 - **CITIZEN SUITS**

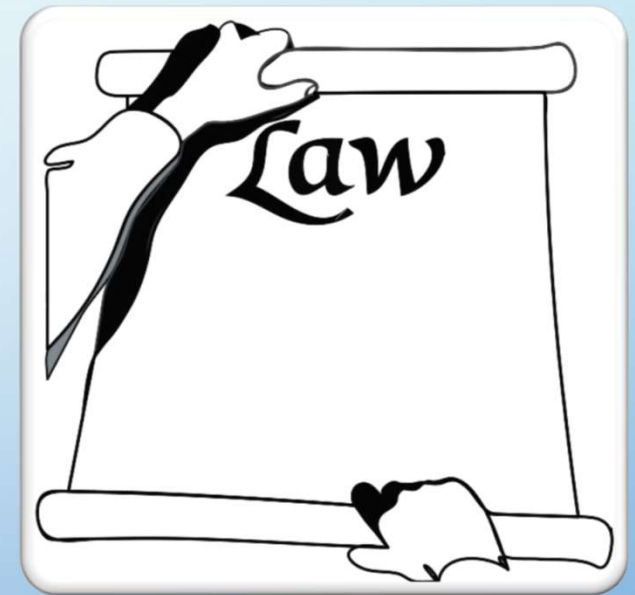
NEW CGP

- TIMING
 - ADOPTED SEPTEMBER 8, 2022
 - EFFECTIVE DATE FOR NEW PROJECTS SEPTEMBER 1, 2023
 - EFFECTIVE DATE FOR EXISTING PROJECTS SEPTEMBER 1, 2025
- KEY REVISIONS AND REQUIREMENTS
 - PERMIT COMPLEXITY AND VAGUE TERMS
 - SAMPLING TRIGGERS FOR NON-VISIBLE POLLUTANTS
 - NEL INFEASIBILITY
 - ENVIRONMENTAL JUSTICE
 - RECEIVING WATER LIMITATIONS IN THE ABSENCE OF A TMDL
 - NEW LIMITS AND REQUIREMENTS ON THE USE OF FLOCCULANTS IN PASSIVE TREATMENT
 - NEW LIABILITIES AND RESPONSIBILITIES FOR LRP, QSD, AND QSP



CLEAR AND CONSISTENT REQUIREMENTS AND TERMINOLOGY

- CALIFORNIA STATUTES AND THE STATE WATER BOARD'S OWN POLICIES REQUIRE "THE FAIR TREATMENT OF PEOPLE OF ALL RACES, CULTURES, AND INCOMES WITH RESPECT TO THE DEVELOPMENT, ADOPTION, IMPLEMENTATION, AND ENFORCEMENT OF ALL ENVIRONMENTAL LAWS, REGULATIONS, AND POLICIES."
- THIS REQUIRES THAT THE PERMIT BE REASONABLY INTELLIGIBLE TO ALL DISCHARGERS THAT ARE SUBJECT TO ITS MANDATES REGARDLESS OF RACE, CULTURE, OR INCOME.
- THE PERMIT FAILS TO ACHIEVE THESE REQUIREMENTS FOR MULTIPLE REASONS.
 - LEVEL OF COMPLEXITY (OVER 400 PAGES)
 - LEVEL OF PROFESSIONAL EXPERTISE REQUIRED
 - ONLY AVAILABLE IN ENGLISH
 - MULTIPLE UNDEFINED TERMS (BREACH, FAILURE, MALFUNCTION)



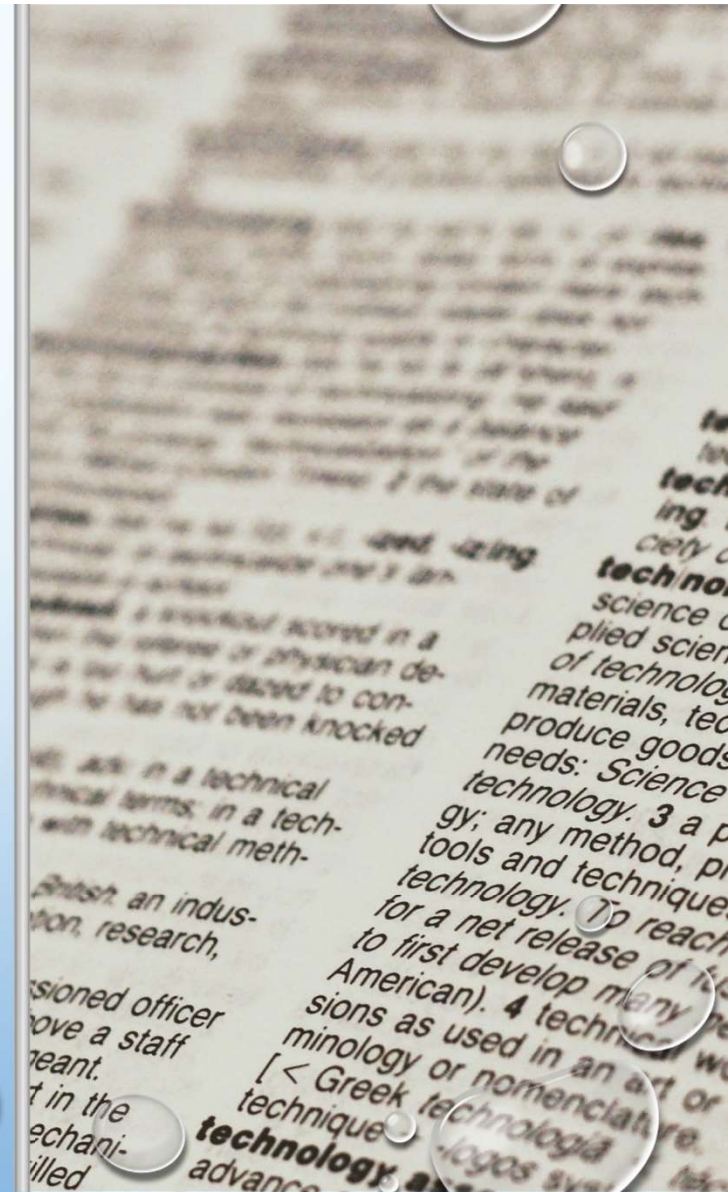
SAMPLING TRIGGERS FOR NON-VISIBLE POLLUTANTS ARE UNDEFINED

- WHEN IS NON-VISIBLE POLLUTANT MONITORING REQUIRED?
- THE PERMIT APPEARS TO RELY ON MULTIPLE CRITERIA TO DETERMINE WHEN THE REQUIREMENT TO MONITOR FOR A NON-VISIBLE POLLUTANT IS TRIGGERED
 - “BREACH” “FAILURE” OR “MALFUNCTION “OF A BMP
 - STAFF ASSERTED THAT THE DICTIONARY DEFINITIONS OF “BREACH”, “FAILURE” AND “MALFUNCTION” ARE SUFFICIENT TO PROVIDE PERMITTEES, REGULATORS, AND CITIZEN SUIT ENFORCERS WITH A CLEAR UNDERSTANDING OF THE DISCHARGERS’ OBLIGATION TO SAMPLE
- WEBSTERS DICTIONARY DEFINES FAILURE AS “A STATE OF INABILITY TO PERFORM A NORMAL FUNCTION” AND MALFUNCTION AS “A FAILURE TO OPERATE OR FUNCTION IN THE NORMAL OR CORRECT MANNER”
 - THESE TERMS ARE SYNONYMS.



SAMPLING TRIGGERS FOR NON-VISIBLE POLLUTANTS ARE UNDEFINED (continued)

- THE PERMIT FAILS TO IDENTIFY THE “NORMAL FUNCTION” THAT DEFINES WHEN A FAILURE OR MALFUNCTION HAS OCCURRED
 - ANY BMP WILL FAIL OR MALFUNCTION IF THE STORM EVENT EXCEEDS THE BMP DESIGN STORM SIZE OR INTENSITY
 - THE PERMIT FAILS TO ESTABLISH A COMPLIANCE STORM EQUAL TO THE DESIGN STORM ALREADY INCORPORATED INTO THE PERMIT AND LIMITS THE PROVISIONS ASSOCIATED WITH MALFUNCTIONS OR FAILURES TO STORM EVENTS EQUAL TO OR LESS THAN THE DESIGN STORM
- WEBSTERS DEFINES BREACH AS A BROKEN, RUPTURED, OR TORN CONDITION OR AREA
 - IF THIS WORD IS TO HAVE ANY MEANING IN IMPLEMENTING THE PERMIT, THE DOCUMENT MUST IDENTIFY A STANDARD AGAINST WHICH TO COMPARE THE BMP'S PERFORMANCE



NEL INFEASIBILITY FOR DISSOLVED METALS

- THE PERMIT IMPOSES NELS IN CHOLLAS CREEK FOR DISSOLVED COPPER AND ZINC.
- ALL THE CURRENT BMPS FOR CONSTRUCTION SITES, INCLUDING ADVANCED TREATMENT SYSTEMS, CONTROL SUSPENDED SOLIDS, NOT DISSOLVED CONSTITUENTS.
- BASED ON THE CURRENT EXPERIENCE WITH THE INDUSTRIAL GENERAL STORMWATER PERMIT, THE ONLY KNOWN AND DEMONSTRATED BMPS FOR DISSOLVED METALS IN STORM WATER ARE ION EXCHANGE, CARBON ADSORPTION, OR REVERSE OSMOSIS.
- LIKE THE TREATMENT TECHNOLOGIES FOR NITROGEN COMPOUNDS, THE TREATMENT TECHNOLOGIES FOR DISSOLVED METALS REQUIRE THE CONSTRUCTION OF COMPLEX TREATMENT PLANTS WITH LARGE FOOTPRINTS THAT ARE NOT TECHNICALLY OR ECONOMICALLY FEASIBLE AT CONSTRUCTION SITES.
- IMPOSING A NEL FOR DISSOLVED METALS IN CHOLLAS CREEK IS TANTAMOUNT TO A BUILDING MORATORIUM FOR THE CITIZENS OF THIS LOW-INCOME WATERSHED.



ENVIRONMENTAL JUSTICE

- ENVIRONMENTAL JUSTICE (EJ) IS DEFINED BY CALIFORNIA STATUTE AS “THE FAIR TREATMENT OF PEOPLE OF ALL RACES, CULTURES, AND INCOMES WITH RESPECT TO THE DEVELOPMENT, ADOPTION, IMPLEMENTATION, AND ENFORCEMENT OF ALL ENVIRONMENTAL LAWS, REGULATIONS, AND POLICIES
- THE PERMIT IMPOSES THE SAME DRACONIAN OBLIGATIONS ON SMALL, DISADVANTAGED COMMUNITIES CONTEMPLATING SMALL PROJECTS AS IT DOES ON MAJOR STATE SPONSORED CONSTRUCTION PROJECTS.
- THIS IS “GREEN CROW” AT ITS FINEST.



RECEIVING WATER LIMITATIONS IN THE ABSENCE OF A TMDL

- THE PERMIT REQUIRES THAT “DISCHARGERS SHALL NOT CAUSE OR CONTRIBUTE TO THE EXCEEDANCE OF AN APPLICABLE WATER QUALITY OBJECTIVE ” .
- NOWHERE IN THIS 471 -PAGE DOCUMENT IS THERE A DEFINITION OF THE TERM “APPLICABLE WATER QUALITY OBJECTIVE”.
- WATER QUALITY OBJECTIVES ARE ESTABLISHED FOR RECEIVING WATERS.
- THE PERMIT STATES: “WATER QUALITY STANDARDS APPLY TO THE QUALITY OF THE RECEIVING WATER, NOT THE QUALITY OF THE INDUSTRIAL STORM WATER DISCHARGE. THEREFORE, COMPLIANCE WITH THE RECEIVING WATER LIMITATIONS GENERALLY CANNOT BE DETERMINED SOLELY BY THE EFFLUENT WATER QUALITY CHARACTERISTICS.”
- AS IT PERTAINS TO NON-VISIBLE POLLUTANTS, THE PERMIT PROVIDES NO DIRECTION TO DISCHARGERS, REGIONAL BOARDS, OR CSES AS TO HOW TO DETERMINE WHETHER AN EXCEEDANCE OF A WATER QUALITY OBJECTIVE HAS OCCURRED.

NEW PASSIVE TREATMENT REQUIREMENTS

- DEVELOPMENT OF A PASSIVE TREATMENT PLAN BY A “QUALIFIED” QSD
 - LIMITED TO FOOD GRADE ANIONIC CHEMICALS
 - ACUTE AND CHRONIC TOXICITY TEST DATA
 - INSPECTION AND MAINTENANCE REQUIREMENTS
 - MONITORING, SAMPLING AND REPORTING PLAN, INCLUDING QUALITY ASSURANCE/QUALITY
 - CONTROL (QA/QC);
 - HEALTH AND SAFETY PROCEDURES;
 - SPILL PREVENTION AND RESPONSE PROCEDURES;
 - CALCULATED AND RE-CALCULATED QUANTITIES OF PASSIVE TREATMENT PRODUCTS USED;
 - SITE-SPECIFIC PERFORMANCE TESTING RESULTS AND THE ASSOCIATED DOSAGE/APPLICATION RATE(S)



NEW PASSIVE TREATMENT REQUIREMENTS (continued)

- SITE MAP OF:
 - SITE AREA LOCATION(S) WHERE THE PRODUCT(S) IS USED (TREATMENT ZONE);
 - TREATMENT ZONE EFFLUENT DISCHARGE LOCATION(S);
 - SITE LOCATION(S) WHERE PRODUCT(S) WILL BE STORED;
 - LOCATIONS OF PRODUCT RECOVERY BMP(S), INCLUDING BUT NOT LIMITED TO, PONDS, CHEMICALS AND/OR PRODUCT RECOVERY BMPS ETC.; AND
 - TREATMENT ZONE SOIL TYPE(S);
- PROPOSED APPLICATION DATE(S) OR SCHEDULE; AND
- APPLICATION METHOD(S);
- SITE INSPECTIONS BY QSD BEFORE AND AFTER EVERY RAIN EVENT
- PLAN MUST BE CERTIFIED AND UPLOADED TO SMARTS 14 DAYS PRIOR TO USE



ADDITIONAL OBLIGATIONS FOR LRP (AKA “DISCHARGER”)



- THE LEGALLY RESPONSIBLE PERSON, AS DEFINED IN APPENDIX 2, IS RESPONSIBLE FOR ALL SITE PROJECT ACTIVITY AFFILIATED WITH GENERAL PERMIT COMPLIANCE AND NON-COMPLIANCE.
- THE LEGALLY RESPONSIBLE PERSON SHALL ENSURE THAT THE SWPPP AND ANY REQUIRED AMENDMENTS ARE DEVELOPED BY A CERTIFIED QSD. SWPPP CHANGES OR AMENDMENTS SHALL BE UPLOADED THROUGH SMARTS WITHIN 14 CALENDAR DAYS.
- THE LEGALLY RESPONSIBLE PERSON SHALL ENSURE THAT ALL PERSONS RESPONSIBLE FOR IMPLEMENTING THIS GENERAL PERMIT'S REQUIREMENTS FOR A PROJECT SHALL BE APPROPRIATELY LICENSED OR CERTIFIED IN ACCORDANCE WITH THIS GENERAL PERMIT. FOR EXAMPLE, THE LEGALLY RESPONSIBLE PERSON SHALL VERIFY PERSONNEL SERVING AS QSD(S) OR QSP(S) HAVE AN ACTIVE AND CURRENT CERTIFICATE, AND ENGINEERING AND/OR GEOLOGY WORK PERFORMED FOR THE SITE IS CONDUCTED BY A CALIFORNIA LICENSED PROFESSIONAL.
- THE LEGALLY RESPONSIBLE PERSON SHALL ENSURE THAT THE CORRECT CONSTRUCTION START, AND END DATE ARE:
 - USED FOR EACH REGULATED CONSTRUCTION PROJECT;
 - LISTED IN SMARTS; AND,
 - INCLUDED ON THE UNIQUE W DID NOTIFICATION FORM IN A SITE LOCATION VIEWABLE BY THE PUBLIC.
- THE LEGALLY RESPONSIBLE PERSON SHALL ENSURE PROJECT DATA AND CONTACT INFORMATION IS CURRENT IN SMARTS

ADDITIONAL OBLIGATIONS FOR THE QSD

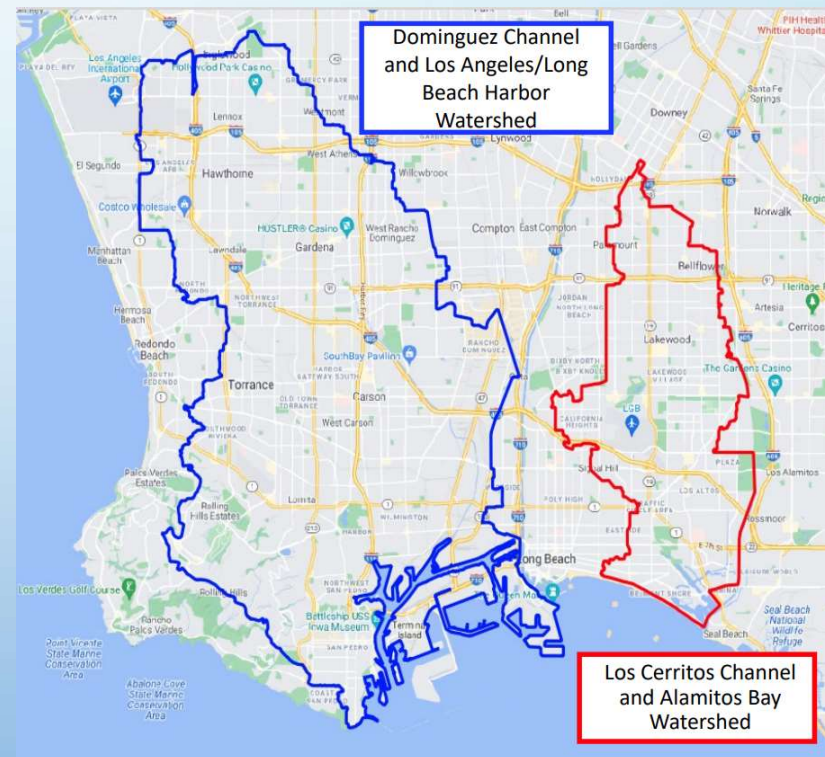
- THE DISCHARGER SHALL RETAIN A QSD FOR THE PROJECT BEGINNING THROUGH THE APPROVED NOTICE OF TERMINATION.
- THE DISCHARGER SHALL ENSURE THAT A QSD REVIEWS VISUAL OBSERVATION REPORTS AND SAMPLING DATA PRIOR TO THE ELECTRONIC SUBMITTAL THROUGH SMARTS. THE QSD IS REQUIRED TO ASSESS HOW CONSTRUCTION ACTIVITIES WILL AFFECT SEDIMENT TRANSPORT, EROSION, AND OTHER DISCHARGES OF POLLUTANTS IN STORMWATER RUNOFF IN THE SWPPP DESIGN AND IMPLEMENTATION. THE QSD IS REQUIRED TO REVISE THE SWPPP TO ADDRESS POTENTIAL PROBLEMS IDENTIFIED BY VISUAL OBSERVATIONS, SAMPLING DATA, COMMENTS FROM THE QSP, OR THEIR OWN SITE OBSERVATIONS.
- THE QSD IS REQUIRED TO INCLUDE IN THE SWPPP THE NAME, EMAIL, AND PHONE NUMBER OF ALL THE QSP-TRAINED DELEGATE(S).
- THE DISCHARGER SHALL ENSURE THAT THE QSD PERFORMS THE REQUIRED ON-SITE VISUAL OBSERVATIONS DURING THE FOLLOWING TIME PERIODS:
 - WITHIN 30 DAYS OF CONSTRUCTION ACTIVITIES COMMENCING ON A SITE;
 - WITHIN 30 DAYS OF A DISCHARGER REPLACING A SITE'S QSD;
 - WITHIN 14 DAYS OF STARTING A NEW CONSTRUCTION PHASE;
 - PRIOR TO VERIFICATION OF COMPLIANCE WITH REGULATORY COVERAGE TERMINATION REQUIREMENTS AND PREPARATION OF REQUIRED DOCUMENTS (CHANGE OF INFORMATION OR NOTICE OF TERMINATION) FOR ALL OR PART OF A SITE;
 - WITHIN 14 CALENDAR DAYS AFTER A NUMERIC ACTION LEVEL EXCEEDANCE; AND,
 - WITHIN THE TIME PERIOD REQUESTED IN WRITING FROM WATER BOARD STAFF.
- THE DISCHARGER SHALL ENSURE THAT THE QSD COMPLETES AN ON-SITE EVALUATION FORM THROUGH SMARTS AFTER EACH SITE VISIT. THE ON-SITE EVALUATION FORM WILL BE USED TO AUTO POPULATE THE ANNUAL REPORT. THE ON-SITE EVALUATION IS A SERIES OF QUESTIONS BASED ON THIS GENERAL PERMIT'S REQUIREMENTS.
- PLUS ADDITIONAL DUTIES IF PASSIVE TREATMENT IS TO BE USED.

ADDITIONAL OBLIGATIONS FOR QSP

- THE DISCHARGER SHALL ENSURE THAT A QSP REVIEWS WORK PERFORMED BY DESIGNATED STAFF INCLUDING SAMPLING, ANALYSIS, AND OTHER REQUIRED TASKS LISTED IN THE SWPPP.
- THE DISCHARGER SHALL HAVE A QSP PERFORM ON-SITE VISUAL OBSERVATIONS AT THE FOLLOWING TIMES:
 - ONCE EVERY 14 DAYS;
 - WITHIN 14 DAYS AFTER A NUMERIC ACTION LEVEL EXCEEDANCE THE QSP SHALL VISUALLY INSPECT DRAINAGE AREA OF EXCEEDANCE AND DOCUMENT ANY AREAS OF CONCERN;
 - PRIOR TO THE SUBMITTAL OF GENERAL PERMIT NOTICE OF TERMINATION OR CHANGE OF INFORMATION (FOR ACREAGE CHANGES) OF ALL OR PART OF A SITE; AND,
 - WITHIN 72 HOURS PRIOR TO A FORECASTED PRECIPITATION EVENT THAT HAS A PROBABILITY OF PRECIPITATION OF 50% OR GREATER WHEN THE SITE HAS ANY BMP DEFICIENCIES, POORLY PERFORMING BMPS, A NUMERIC ACTION LEVEL EXCEEDANCE, OR UNRESOLVED CORRECTIVE ACTIONS. THE QSP SHALL INSPECT AREAS OF CONCERN TO VERIFY THE STATUS OF ANY DEFICIENCIES, BMPS, OR OTHER IDENTIFIED ISSUES AT THE SITE.
- THE DISCHARGER SHALL ENSURE THAT THE QSP VERIFIES THE FOLLOWING:
 - ALL BMPS REQUIRED IN THE SWPPP ARE IMPLEMENTED, CORRECTLY INSTALLED, INSPECTED, AND MAINTAINED;
 - TRACK OUT OF CONSTRUCTION RELATED MATERIAL AT SITE ENTRANCES AND EXITS IS CONTROLLED;
 - THE SMARTS GENERATED WQID NOTIFICATION FORM IN A SITE LOCATION VIEWABLE BY THE PUBLIC, KEPT UP TO DATE, AND THE START AND END DATES ARE CORRECT AND MATCH THE DATES LISTED IN SMARTS FOR THE PROJECT;
 - SAMPLING PROTOCOLS FOR STORMWATER AND NON-STORMWATER DISCHARGES ARE CORRECTLY PERFORMED AS DESCRIBED IN THE SWPPP BY ON-SITE TRAINED PERSONNEL DELEGATED BY THE QSP (INCLUDING, BUT NOT LIMITED TO, TAKING REPRESENTATIVE SAMPLES OF THE RUNOFF);
 - CONTACT INFORMATION INCLUDING, NAME, PHONE NUMBER AND EMAIL ADDRESS, IS UPDATED WITHIN 14 DAYS OF A CHANGE AND CORRECT AS LISTED IN SMARTS FOR THE DISCHARGER, QSD, AND QSP; AND,
 - PHOTO DOCUMENTATION IS INCLUDED IN THE SWPPP EVALUATION FORM FOR: PROBLEM AREAS OF EROSION, NEW SEDIMENT DEPOSITION, UNAUTHORIZED NON-STORMWATER DISCHARGES, AND/OR FAILED BMPS.
- THE DISCHARGER SHALL ELECTRONICALLY CERTIFY AND SUBMIT UPLOADED SAMPLING DATA AND VISUAL OBSERVATION REPORTS THROUGH SMARTS WITHIN 14 CALENDAR DAYS AFTER CONCLUSION OF THE OBSERVATION AND/OR SAMPLING EVENT.

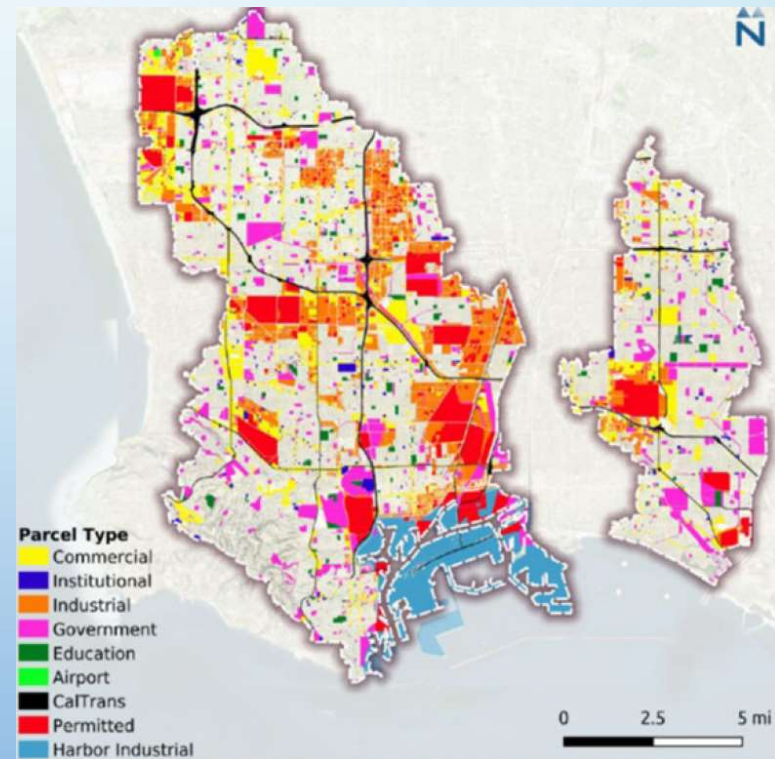
NEW REGULATION – COMMERCIAL, INDUSTRIAL AND INSTITUTIONAL (“CII”) PERMIT

- IMPOSES NEW STORM WATER REGULATIONS ON “PRIVATE” CII FACILITIES GREATER THAN FIVE ACRES.
- CURRENTLY LIMITED TO 2-WATERSHEDS IN LA COUNTY
 - CURRENTLY STILL IN DRAFT
[HTTPS://WWW.WATERBOARDS.CA.GOV/LOSANGELES/WATER_ISSUES/PROGRAMS/STORMWATER/COMMERCIAL_INDUSTRIAL_AND_INSTITUTIONAL/RB4_CII_DRAFTPERMIT_FOR_P N_072522.PDF](https://www.waterboards.ca.gov/losangeles/water_issues/programs/stormwater/commercial_industrial_and_institutional/RB4_CII_DRAFTPERMIT_FOR_P N_072522.PDF)
- COMMENTS CURRENTLY UNDER REVIEW BY LA WATERBOARD AND EPA
- THIS FIRST CII IS A PROTOTYPE AND WILL LIKELY BE USED AS A TEMPLATE FOR STATEWIDE CII PERMITS IN ALL URBAN AREAS.



WHAT DO WE KNOW ABOUT THE DRAFT CII

- REGULATES “COMMERCIAL, INDUSTRIAL, AND INSTITUTIONAL” FACILITIES WITH FOOTPRINTS GREATER THAN FIVE ACRES INCLUDING ROOFS AND PARKING LOTS.
- APPLICABLE TO “PRIVATE” FACILITIES –INCLUDING SHOPPING CENTERS AND BIG BOX STORES, INDUSTRIAL FACILITIES ALREADY COVERED BY IGP, PRIVATE SCHOOLS AND UNIVERSITIES, CHURCHES AND HOSPITALS.
- THREE OPTIONS TO COMPLY
 - OPTION 1 -- PAY INTO AN ALTERNATIVE COMPLIANCE PROJECT SPONSORED BY A PUBLIC AGENCY.
 - OPTION 2 -- CAPTURE AND INFILTRATE, USE, OR DISCHARGE TO THE SANITARY SEWER THE 85TH PERCENTILE STORM EVENT.
 - OPTION 3 -- COMPLY WITH A SET OF REQUIREMENTS LIKE THE IGP FENCE LINE TO FENCE LINE.





OPTION 1 - AGREEMENT WITH LOCAL WATERSHED MANAGEMENT GROUP TO FUND REGIONAL PROJECT

- DISCHARGERS ENTER INTO A LEGALLY BINDING AGREEMENT WITH THE LOCAL WATERSHED MANAGEMENT GROUP TO FUND, OR PARTIALLY FUND, A DOWNSTREAM REGIONAL PROJECT INCLUDED IN A WATERSHED MANAGEMENT PROGRAM DEVELOPED TO IMPLEMENT REQUIREMENTS OF THE REGIONAL MS4 PERMIT AND APPROVED BY THE LOS ANGELES WATER BOARD.
- IF A DOWNSTREAM REGIONAL PROJECT IS NOT TECHNICALLY FEASIBLE IN THE WATERSHED MANAGEMENT PROGRAM, THE APPLICABLE WATERSHED MANAGEMENT GROUP SHALL IDENTIFY AN UPSTREAM PROJECT WITHIN THE WATERSHED MANAGEMENT GROUP'S AREA.
- SPECIFIC DETAILS RELATED TO THE FUNDED PROJECT SHALL BE DOCUMENTED IN THE AGREEMENT BETWEEN DISCHARGERS AND WATERSHED MANAGEMENT GROUP AND APPROVED BY THE RWQCB.
- THE REGIONAL PROJECT SHALL BE ADEQUATELY SIZED TO ADDRESS THE NSWDC AND STORMWATER VOLUME THAT WOULD OTHERWISE NEED TO BE ADDRESSED ONSITE UNDER COMPLIANCE OPTIONS 2 OR 3.
- THE FUNDING LEVEL MUST BE PROPORTIONAL TO THE NSWDC AND ONSITE STORMWATER VOLUME TO BE ADDRESSED/TOTAL REGIONAL PROJECT STORMWATER CAPACITY.
- DISCHARGERS SELECTING AND IN COMPLIANCE WITH COMPLIANCE OPTION 1 SHALL BE DEEMED IN COMPLIANCE WITH THE DISCHARGE PROHIBITIONS AND EFFLUENT LIMITATIONS

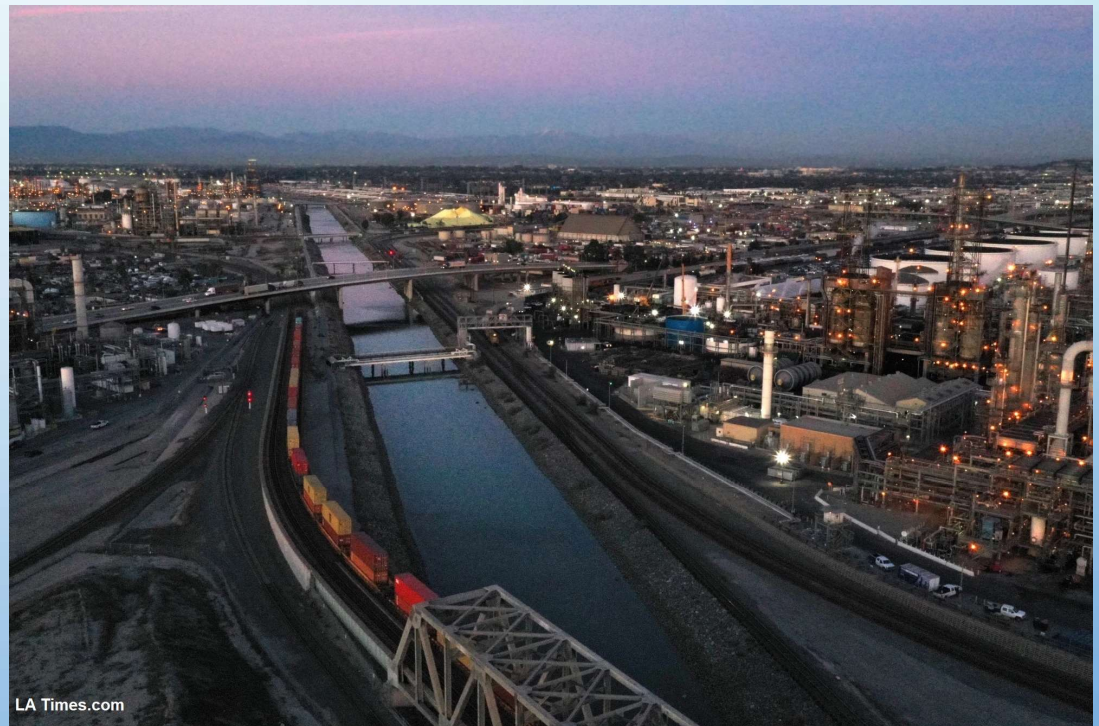
OPTION 2 - FACILITY-SPECIFIC DESIGN STANDARD TO REDUCE STORMWATER RUNOFF

- THE DISCHARGER SHALL DESIGN, IMPLEMENT, AND PROPERLY OPERATE AND MAINTAIN STORMWATER CONTROLS (STRUCTURAL AND/OR NON-STRUCTURAL BMPS) WITH THE EFFECTIVE CAPACITY TO CAPTURE AND USE, INFILTRATE, AND/OR EVAPOTRANSPIRE ALL NSWDS AND THE VOLUME OF RUNOFF PRODUCED UP TO AND DURING AN 85TH PERCENTILE 24-HOUR STORM EVENT.
 - INFILTRATE
 - EVAPORATE
 - SANITARY SEWER
- THE DISCHARGER SHALL COMPLY WITH THE REQUIREMENTS SPECIFIED IN ATTACHMENT I. (SIMILAR TO IGP ATTACHMENT I)
- DISCHARGERS SELECTING AND IN COMPLIANCE WITH COMPLIANCE OPTION 2 SHALL BE DEEMED IN COMPLIANCE WITH THE DISCHARGE PROHIBITIONS AND EFFLUENT LIMITATIONS

OPTION 3 - DIRECT DEMONSTRATION OF COMPLIANCE WITH WATER QUALITY BASED EFFLUENT LIMITATIONS

EACH CII PERMITTEE WILL NEED TO:

- COMPLETE THE NOI
- DEVELOP A SWPPP WITH SITE MAP
- CONDUCT A POLLUTANT SOURCE ASSESSMENT
- INSTALL BMPS
- CONDUCT EMPLOYEE TRAINING
- COLLECT STORMWATER DISCHARGE SAMPLES
- CONTRACT FOR LABORATORY ANALYSIS
- PREPARE AND SUBMIT ANNUAL REPORTS
- **MEET THE VERY LOW NUMERIC EFFLUENT LIMITS (NELS) FOR COPPER, LEAD, AND ZINC, AS WELL AS BACTERIA, AMMONIA AND OTHER CONTAMINANTS.**



WHAT WE DON'T KNOW ABOUT THE CII

- WHO IS REGULATED?
 - OWNER VS. OPERATOR
 - PUBLIC VS. PRIVATE
- WHAT IS REGULATED?
 - ENTIRE ACREAGE VS IMPERVIOUS AREA
- OPTION 1
 - CREDIT OWNERSHIP AND TIMING
 - RUN WITH THE LAND OR ARE THEY THE PROPERTY OF THE OPERATOR?
 - WHEN DO CREDITS BECOME EFFECTIVE?
 - CREDIT CALCULATIONS
 - ACRE FOR ACRE OR GALLON FOR GALLON?
- RATIONAL FOR EXEMPTIONS
 - NEC VS. NONA



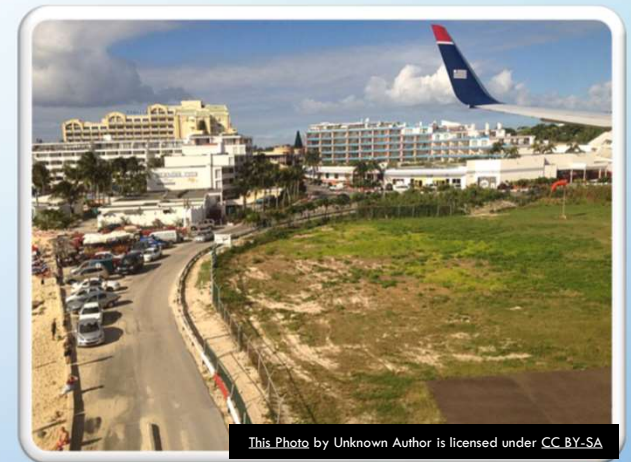
WHO IS REGULATED – OWNER OR OPERATOR?

- THE DRAFT CII DOES NOT CLARIFY
 - CGP – IT'S THE OWNER
 - IGP – IT'S THE OPERATOR
 - CII -- ?
- EXAMPLE
 - 25-ACRE SHOPPING CENTER WITH MULTIPLE STORES.
 - THE OWNER OF THE PROPERTY WHO LEASES THE STORES AND CERTAIN RIGHTS TO USE THE COMMON AREAS IS ENGAGED IN COMMERCIAL ACTIVITIES (NAISC CODE 531120) LIKELY HAS CONTROL OVER THE ENTIRE PARCEL.
 - THE SHOP OWNERS WHO LEASE THE STORES AND HAVE RIGHTS TO THE USE OF THE COMMON AREAS ALSO ENGAGE IN COMMERCIAL ACTIVITIES (NAISC CODES 45XXXX).
 - IT IS LIKELY THAT EACH OF THE RETAIL STORES ARE THEMSELVES LESS THAN FIVE ACRES. HOWEVER, THE DRAFT PERMIT FAILS TO ADDRESS HOW TO CALCULATE COMMON AREA ACREAGE SUCH AS PARKING LOTS SIDEWALKS AND OTHER AMENITIES.



WHO IS REGULATED – PUBLIC VS PRIVATE?

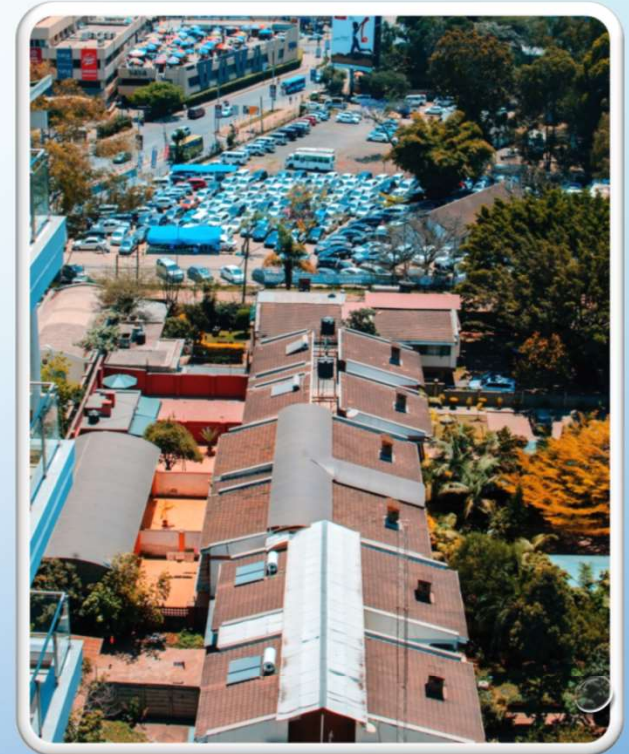
- PUBLIC LANDS THAT ARE THEN LEASED TO PRIVATE OPERATORS.
- CII EXEMPTS PRIVATE LESSEES ON PUBLIC AIRPORTS.
 - “MOST IMPERVIOUS SURFACES AT THE AIRPORTS ARE NOT CONTROLLED BY PRIVATE ENTITIES, BUT RATHER BY MUNICIPAL DEPARTMENTS AND AS SUCH, ARE ALREADY REGULATED UNDER REGIONAL MUNICIPAL SEWER SYSTEM NPDES PERMIT ORDER NO R4-2021-0105” (“MS4 PERMIT”).”
 - APPEARS TO INCLUDE OTHER COMMERCIAL AND INSTITUTIONAL ACTIVITIES AT PUBLIC AIRPORTS
 - HOTELS
 - RENTAL CARS
 - LONG TERM PARKING
 - FLIGHT SCHOOLS
 - SAME LOGIC APPEARS TO APPLY TO MANY OTHER PUBLICLY OWNED PROPERTIES SUCH AS
 - PORT FACILITIES.
 - SCHOOLS AND HOSPITALS ON PUBLIC LANDS
 - PRIVATE RECREATIONAL FACILITIES ON PUBLIC LANDS.



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WHAT IS REGULATED – ACREAGE VS. IMPERVIOUS AREAS?

- INDUSTRIAL FACILITIES ARE REGULATED BASED ON THEIR ENTIRE FOOTPRINT INCLUDING ROOFS.
- COMMERCIAL AND INSTITUTIONAL FACILITIES ARE REGULATED BASED ON “IMPERVIOUS AREA”
 - WHAT CONSTITUTES “IMPERVIOUS AREA”
 - GREEN ROOFS?
 - PERVIOUS PAVERS?



OPTION 1 CREDITS

- WHO OWNS THE CREDIT?
 - PROPERTY OWNER OR OPERATOR?
 - ARE THE CREDITS TRANSFERABLE
 - BETWEEN SITES?
 - BETWEEN OPERATORS?
- WHEN DOES THE CREDIT BECOME EFFECTIVE?
 - WHEN PURCHASED OR WHEN THE PROJECT IS COMPLETED?
- HOW WILL THE CREDIT BE CALCULATED?
 - ACRE FOR ACRE?
 - GALLON FOR GALLON?



CII COMING TO A WATERSHED NEAR YOU AB 2106

- STATUS
 - PASSED BY THE LEGISLATURE
 - VETOED BY GOVERNOR
 - LIKELY TO RETURN AFTER LA PERMIT IS FINALIZED
- THE STATE BOARD SHALL ESTABLISH A STATEWIDE COMMERCIAL, INDUSTRIAL, AND INSTITUTIONAL NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
- THE STATE BOARD SHALL PUBLISH A DRAFT ORDER OF THE STATEWIDE ORDER FOR PUBLIC COMMENT ON OR BEFORE DECEMBER 31, 2026, OR 18 MONTHS AFTER THE REISSUANCE OF THE STATEWIDE IGP, WHICHEVER IS LATER.
- THE STATE BOARD SHALL CONTEMPORANEOUSLY DEVELOP A MODEL MEMORANDUM THAT DETAILS THE NECESSARY COMPONENTS OF AN AGREEMENT BETWEEN COMMERCIAL, INDUSTRIAL, AND INSTITUTIONAL PERMITTEES AND LOCAL MUNICIPALITIES FOR ACHIEVING OFFSITE STORMWATER CAPTURE AND USE
- THE NPDES ORDER SHALL INCLUDE MULTIPLE OPTIONS TO ACHIEVE COMPLIANCE WITH WATER QUALITY STANDARDS, INCLUDING, BUT NOT LIMITED TO, COMPLIANCE OPTIONS INCENTIVIZING ONSITE OR OFFSITE STORMWATER CAPTURE AND USE.
- REGULATED STORMWATER PERMITTEES SHALL NOT BE SUBJECT TO MORE THAN ONE STORMWATER NPDES ORDER FOR THE SAME FACILITY
- ALL EFFLUENT LIMITATIONS APPLICABLE TO STORMWATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITIES SHALL BE INCORPORATED INTO THE STATEWIDE CII
- THE OPERATION OF THIS SECTION IS CONTINGENT UPON AN APPROPRIATION FOR ITS PURPOSES BY THE LEGISLATURE IN THE ANNUAL BUDGET ACT OR ANOTHER STATUTE.



RWQCB LITIGATION UPDATE

- RWQCB ENFORCEMENT ACTIONS
 - CIVIL LIABILITY COMPLAINTS
 - BALDWIN & SON, ET. AL.
 - \$6,660,503 PENALTY AGAINST COMPANY AND INDIVIDUALS
 - CURRENTLY ON APPEAL IN ORANGE COUNTY SUPERIOR COURT.
 - QUALITY INVESTORS 1 2016 LLC AND DAVID G. EPSTEIN
 - \$411,475 PROPOSED PENALTY AGAINST COMPANY AND LRP
 - 3.5-ACRE RESIDENTIAL DEVELOPMENT
 - HEARING SCHEDULED FOR FEBRUARY 8, 2023
 - MINIMUM MANDATORY PENALTIES (MMPS)
 - CITY OF SAN DIEGO \$54,000 -- SSO
 - CAPEXCO \$36,000 – GROUND WATER DISCHARGES
 - CVS HEALTH \$9,000 -- GROUND WATER DISCHARGES
 - CITY OF CORONADO \$3,000 – GROUND WATER DISCHARGES
 - SEA WORLD \$6,000 – WASTER WATER DISCHARGES
 - EXCEEDANCES OF NELS LA RWQCB
 - 120 MMPS RESOLVED FOR EXCEEDANCES OF STORM WATER NEL
 - PENALTIES RANGE FROM \$3,000 TO \$51,000



CITIZEN SUITS

FREQUENT UNDER THE IGP BECAUSE OF SAMPLING DATA IN SMARTS

NEW CGP AND CII REQUIREMENTS WILL LIKELY INCREASE THE NUMBER OF CITIZEN SUITS



RECEIVING WATER LIMITATIONS

- THE DISCHARGER SHALL ENSURE THAT STORMWATER DISCHARGES, DEWATERING DISCHARGES, AND AUTHORIZED NON-STORMWATER DISCHARGES WILL NOT CONTAIN POLLUTANTS THAT CAUSE OR CONTRIBUTE TO AN EXCEEDANCE OF ANY APPLICABLE WATER QUALITY OBJECTIVES OR WATER QUALITY STANDARDS CONTAINED IN A **STATEWIDE WATER QUALITY CONTROL PLAN, THE CALIFORNIA TOXICS RULE, THE NATIONAL TOXICS RULE, OR THE APPLICABLE REGIONAL WATER BOARD'S WATER QUALITY CONTROL PLAN (BASIN PLAN)**.
 - REGION 9 BASIN PLAN
 - IRON 0.3 MG/L
 - PHOSPHOROUS 0.1 MG/L
 - COMING SOON PFAS MCL IN THE 70 NANOGRAMS PER LITER RANGE



QUESTIONS

